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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/541,939	07/12/2005	Hideki Matsui	052740	8618

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EXAMINER	
CHHABRA, ARUN S	

ART UNIT	PAPER NUMBER
3764	

DATE MAILED: 09/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/541,939	MATSUI, HIDEKI	
	Examiner	Art Unit	
	Arun S. Chhabra	3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-11 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-11 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on 12 July 2005 is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date 7/12/2005.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

.DETAILED ACTION

Information Disclosure Statement

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

The information disclosure statement filed 7/12/2005 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of **50 to 150 words**. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. **The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided**. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Claim Objections

Claim 2 is objected to because of the following informalities: the phrase "tape points the inner edge" in line 2 of the claim should be "tape points to the inner edge". Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 8-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear what Applicant means by using the word thickness because grams per square meter is not an appropriate measurement unit for describing thickness.

In addition, the exact method of beautification and facelifting is unclear in the claims and specification. It is uncertain if Applicant intends the moisturizer to be but on the face first, followed by the placement of stretch tape of if Applicant means to claim that the moisturizer is a part of the stretch tape and comprises one side of the tape to thus form an astringing pack.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Battey (US Patent Number 2,001,862).

Battey discloses facial tissue support that can be stuck in between the eyes and outside the outer corners of the eyes as shown in Figure 6. The tape stretches the skin to thus remove wrinkles and make the eye look brighter. The stretch tape also tapers down at sides L so that it is capable of being pointed towards the inner or outer corner of the eyes, depending on how it is placed on the face.

Claim 4 is rejected under 35 U.S.C. 102(b) as being anticipated by Lundy, Jr. et al. (US Patent Number 6,098,616).

Lundy Jr. discloses a non-linear nasal dilator which is in the shape of an inverted V or U and has a top portion stuck to an upper portion of the nose in between the eyes and two bottom edge portions on the lower sides of the nose thus stretching the nose.

Claim 6 is rejected under 35 U.S.C. 102(b) as being anticipated by Oschner (US Patent Number 4,674,133).

Oschner discloses a nose protector that is nearly in the shape of a triangle with the center of the triangle being stuck to the upper portion of the nose as shown at reference number 40.

Claims 8-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Hofmann (US Patent Number 3,949,741).

Hofmann discloses a wrinkle reducing method where a piece of round tape is stuck onto a skin and stretched and fix to a user's face. The stretch tape is noted as

being possibly made of a polyurethane while the adhesive is noted as being possibly made from an acrylic. In regards to claim 10, in Figure 3 and in column 9, line 65 – column 10, line 13 are disclosed dimensions of a piece of stretch tape that match the dimensions of Applicant.

Claim 11 is rejected under 35 U.S.C. 102(b) as being anticipated by Gueret (US 2002/0051796).

Gueret discloses a method of applying a moisturizing tape or pack to the skin with one side of the pack having a solution to be applied to the face to remove wrinkles. The tape is capable of being stuck around any portion of the face and after application of the moisturizing patch, the patch is removed and the face is washed. Though Gueret discloses that the patch be only worn for 2 hours and Applicant claims that the patch should be worn before bedtime and then removed the next day, it should be known that it is commonly known in the art for moisturizing agents to be applied to the face for the entire night while one sleeps.

Claim Rejections - 35 USC § 103

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Battey.

Battey discloses the claimed invention but does not disclose expressly the dimensions of the tape, pad or strip. It would have been an obvious matter of design choice to a person of ordinary skill in the art to modify the tissue support as taught by Battey with the dimensions as specified, because Applicant has not disclosed that having those dimensions provides an advantage or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to

perform equally well with tape dimensions similar to Battey, because the tissue support of Battey and the dimensions it has still perform the function of Applicant's invention as claimed and thus a modification of dimensions appears to be an arbitrary design consideration which fails to patentably distinguish over Battey.

Therefore, it would have been an obvious matter of design choice to modify Battey to obtain the invention as specified in the claim(s).

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lundy, Jr.

Lundy Jr. discloses the claimed invention but does not disclose expressly the dimensions of the tape, pad or strip. It would have been an obvious matter of design choice to a person of ordinary skill in the art to modify the nasal dilator as taught by Lundy Jr. with the dimensions as specified, because Applicant has not disclosed that having those dimensions provides an advantage or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with tape dimensions similar to Lundy Jr., because the nasal dilator of Lundy Jr. and the dimensions it has still perform the function of Applicant's invention as claimed and thus a modification of dimensions appears to be an arbitrary design consideration which fails to patentably distinguish over Lundy Jr.

Therefore, it would have been an obvious matter of design choice to modify Lundy Jr. to obtain the invention as specified in the claim(s).

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Oschner.

Oschner discloses the claimed invention but does not disclose expressly the dimensions of the tape, pad or strip. It would have been an obvious matter of design

choice to a person of ordinary skill in the art to modify the nose protector as taught by Oschner with the dimensions as specified, because Applicant has not disclosed that having those dimensions provides an advantage or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with tape dimensions similar to Oschner, because the nose protector of Oschner and the dimensions it has still perform the function of Applicant's invention as claimed and thus a modification of dimensions appears to be an arbitrary design consideration which fails to patentably distinguish over Oschner.

Therefore, it would have been an obvious matter of design choice to modify Oschner to obtain the invention as specified in the claim(s).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arun S. Chhabra whose telephone number is 571-272-7330. The examiner can normally be reached on M-F 9:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

STEPHEN R. CROW
PRIMARY EXAMINER
ART UNIT 332